

AMENDED IN ASSEMBLY MARCH 31, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2672**

**Introduced by Assembly Member Simitian**

February 20, 2004

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An act to amend Sections 72400, 72410, 72421, and 72440 of, and to add Section 72425 to, the Public Resources Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

AB 2672, as amended, Simitian. Large passenger vessels: sewage.

Existing law prohibits large passenger vessels, as defined, from releasing specified substances into the marine waters of the state. Existing law requires the State Water Resources Control Board to apply to the federal government to prohibit the release of specified substances in waters that are not in state waters, but are in certain marine sanctuaries.

Federal law prohibits a state from prohibiting vessels from discharging sewage, unless the state applies to and receives approval from the United States Environmental Protection Agency.

*Existing law requires an owner or operator of a large passenger vessel that releases specified substances into the marine waters of the state or a marine sanctuary, as defined, to immediately report the release to the board, as specified.*

This bill would require the board to ~~apply to the Administrator of the United States Environmental Protection Agency~~ *determine whether it is necessary for the state to apply to the federal government* to authorize the state to prohibit the release of sewage, as defined, from large passenger vessels into the marine waters of the state, and to authorize

the state to conduct a pilot program that provides a limited exception to that prohibition.

~~If the Administrator of the United States Environmental Protection Agency approves that application~~ *If the board determines that it is necessary, the bill would require the board to make that application. The bill would provide that because it does not establish a no discharge zone for sewage from all vessels, but only for a class of vessels, a specified application is not required.*

*If the application is approved or the board determines that the application is not required,* the bill would prohibit the owner or operator of a large passenger vessel from releasing, or permitting anyone to release, any sewage from the vessel into the marine waters of the state. The bill would exempt from this prohibition for 18 months owners or operators of large passenger vessels that comply with an 18-month pilot program that would permit the release of sewage from those vessels if specified requirements are met.

The bill would authorize the board and the Legislature to review the results of the pilot program and consider an exemption from the sewage release prohibition, as specified.

*The bill would require the board to apply to the federal government to prohibit the release of sewage from large passenger vessels into waters that are not in state waters, but are in certain marine sanctuaries.*

*The bill would require the owner or operator of a large passenger vessel that releases sewage into the marine waters of the state or a marine sanctuary, as defined, to immediately report the release to the board, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 72400 of the Public Resources Code is
- 2 amended to read:
- 3 72400. (a) The Legislature finds and declares that the
- 4 protection and enhancement of the quality of the marine waters of
- 5 the state and marine sanctuaries requires that the release from large
- 6 passenger vessels of sewage sludge and oily bilgewater, into the
- 7 marine waters of the state and marine sanctuaries, should be
- 8 prohibited.



(b) The Legislature finds and declares that the protection and enhancement of the quality of the marine waters of the state requires that the release of sewage from large passenger vessels into the marine waters of the state should be prohibited.

SEC. 2. Section 72410 of the Public Resources Code is amended to read:

72410. (a) Unless the context otherwise requires, the definitions set forth in this section govern this division.

(b) “Board” means the State Water Resources Control Board.

(c) “Large passenger vessel” or “vessel” means a vessel of 300 gross registered tons or greater that is engaged in the carrying of passengers for hire, excluding all of the following vessels:

(1) Vessels without berths or overnight accommodations for passengers.

(2) Noncommercial vessels, warships, vessels operated by nonprofit entities as determined by the Internal Revenue Service, and vessels operated by the state, the United States, or a foreign government.

(d) “Marine waters of the state” means “coastal waters” as defined in Section 13181 of the Water Code.

(e) “Marine sanctuary” means marine waters of the state in the Channel Islands National Marine Sanctuary, Cordell Bank National Marine Sanctuary, Gulf of the Farallones National Marine Sanctuary, or Monterey Bay National Marine Sanctuary.

(f) “Oil” has the meaning set forth in Section 8750.

(g) “Oily bilgewater” includes bilgewater that contains used lubrication oils, oil sludge and slops, fuel and oil sludge, used oil, used fuel and fuel filters, and oily waste.

(h) “Operator” has the meaning set forth in Section 651 of the Harbors and Navigation Code.

(i) “Owner” has the meaning set forth in Section 651 of the Harbors and Navigation Code.

(j) “Release” means discharging or disposing of wastes into the environment.

(k) “Sewage” has the meaning set forth in Section 775.5 of the Harbors and Navigation Code, and also includes material that has been collected or treated through a marine sanitation device as that term is used in Section 312 of the Clean Water Act (33 U.S.C. Sec. 1322) or material that is a byproduct of sewage treatment.

(l) “Sewage sludge” has the meaning set forth in Section 122.2 of Title 40 of the Code of Federal Regulations.

SEC. 3. *Section 72421 of the Public Resources Code is amended to read:*

72421. If a large passenger vessel releases sewage sludge, sewage, or oily bilgewater into the marine waters of the state or a marine sanctuary, the owner or operator shall immediately, but no later than 24 hours after the release, notify the board of the release. The owner or operator shall include all of the following information in the notification:

(a) Date of the release.

(b) Time of the release.

(c) Location of the release.

(d) Volume of the release.

(e) Source of the release.

(f) Remedial actions taken to prevent future releases.

SEC. 4. *Section 72425 is added to the Public Resources Code, to read:*

72425. (a) If the Administrator of the United States Environmental Protection Agency approves the application *for sewage* made pursuant to subdivision ~~(e)~~ (a) of Section 72440, *or if the board determines that an application is not required*, an owner or operator of a large passenger vessel may not release, or permit anyone to release, any sewage from the vessel into the marine waters of the state, except as provided in subdivision (b).

(b) If the Administrator of the United States Environmental Protection Agency approves the application *for sewage* made pursuant to subdivision ~~(e)~~ (a) of Section 72440, including the proposed pilot program, *or if the board determines that an application is not required*, an owner or operator of a large passenger vessel, for 18 months from the date of approval of that pilot program, may release, or permit a person to release, sewage from the vessel into the marine waters of the state, if all of the following requirements are met:

(1) The vessel is equipped with a wastewater treatment system that has been certified by the United States Coast Guard.

(2) A release of sewage is from a system described in paragraph (1) and complies with the conditions applicable to the waters of Alaska under paragraphs (1) to (6), inclusive, of subdivision (b) of Section 159.309 of Title 33 of the Code of Federal Regulations.

(3) The owner or operator of the large passenger vessel submits the results of its self-monitoring under the pilot program to the board and the Legislature by the end of the 18-month pilot program.

(c) The purpose of the pilot program under subdivision (b) is to authorize a self-monitoring program, to test the efficiency of systems that meet the requirements of paragraphs (1) and (2) of subdivision (b).

(d) The board and the Legislature may review the results of the pilot program and consider an exemption from the sewage release prohibition under subdivision (a) for large passenger vessels that meet the requirements of the earlier pilot program and provide monitoring data to the board quarterly to demonstrate compliance with those requirements.

~~SEC. 4.~~

SEC. 5. Section 72440 of the Public Resources Code is amended to read:

72440. (a) (1) The board shall determine whether it is necessary to apply to the federal government for the state to prohibit the release of *sewage or* sewage sludge from large passenger vessels into the marine waters of the state or marine sanctuaries, *or to conduct the pilot program described in Section 72425.* If the board determines that application is necessary *for either sewage or sewage sludge, or both,* it shall apply to the appropriate federal agencies, as determined by the board, to authorize the state to prohibit the release of *sewage or* sewage sludge, *or both, as necessary,* from large passenger vessels into the marine waters of the state and marine sanctuaries. *If the board determines that application is necessary for the pilot program described in Section 72425, it shall apply to the appropriate federal agencies, as determined by the board, to authorize the state to conduct the pilot program.*

(2) *This division does not establish a no discharge zone for sewage from all vessels, but only for a class of vessels, and, therefore, does not require that the board apply to the Administrator of the United States Environmental Protection Agency pursuant to subsection (f) of Section 1322 of Title 33 of the United States Code and Section 140.4 of Title 40 of the Code of Federal Regulations, to authorize the state to prohibit the release of sewage from large passenger vessels.*

(b) The board shall request the appropriate federal agencies, as determined by the board, to prohibit the release of *sewage*, sewage sludge, and oily bilgewater, except under the circumstances specified in Section 72441, by large passenger vessels, in all of the waters that are in the Channel Islands National Marine Sanctuary, Cordell Bank National Marine Sanctuary, Gulf of the Farallones National Marine Sanctuary, and Monterey Bay National Marine Sanctuary, that are not in the state waters.

~~(c) The board shall apply to the Administrator of the United States Environmental Protection Agency, pursuant to subsection (f) of Section 1322 of Title 33 of the United States Code and Section 140.4 of Title 40 of the Code of Federal Regulations, to authorize the state to prohibit the release of sewage from large passenger vessels into the marine waters of the state, and to authorize the state to conduct the pilot program described in Section 72425.~~